

1. Double Patenting

Regarding the provisionally rejected claims because of co-pending Application No. 09/563,624 under the doctrine of double patenting we offer the following:

Although we do not believe there is claim overlap or double claiming, we offer a Terminal Disclaimer to overcome a Provisional Double Patenting Rejection from the pending associated application '624, under 37 CFR 1.321(c). Please see attached Terminal Disclaimer.

2. Claim Rejections 35 USC § 102

Regarding the rejection based on anticipation by Brush, II et al, (US 5,732,232);

'433 Claim 1: Brush II col. 3 line 38-48 teaches a user interface to "display a likeness of a face on a display device .. by positioning the features of the face in various ways, the face can be used to represent and display human emotions." Prior art has done the same through various programming methods and software programs, see <http://sprott.physics.wisc.edu/pickover/facess.html> for good public domain example, or '624 disclosure references to Chernoff's work for software generating faces through manipulation of facial features of graphics displaying emotions. '433 claim 1 teaches "System and Method for communicating emotive content" not for displaying a likeness of a face on a display device. Brush teaches the display of a face on a device interface 1) in a particular way, positioning a focus point on an x, y plane, and 2) for a particular reason, the point on the x,y plane defines a particular emotion. '433 does not disclose or claim a way of creating an emotive face display, in fact the '433 face glyphs are all hand drawn faces, which are given a defined emotive state and emotive intensity and selected statically or dynamically from a set of emotive state/intensity pairs. '433 does not claim a method for controlling the expression of emotion by positioning a focus or point on an x,y plane for display on a device interface. The present invention claims system and method of communicating emotive vectors, selected emotive state/intensity from a set of emotive states in device communication. These emotive content enriched communications may or may not be displayed and are therefore not constrained or narrowed by display devices.

'433 Claim 2: Brush II col. 4 lines 1-6 teaches a method to control the display of human emotions by way of face in a two dimensional arena, control based on circumplex theory of interpersonal relationships. This is further constrained by positioning the eyes and eye brows and mouth to obtain certain facial features. '433 claims encoding of emotive content into standard computing device communication formats. Brush teaches nothing of encoded selected emotive states or selected emotive intensities. Brush discloses nothing of communication formats or encoding of such into data streams.

'433 Claim 3: Brush II col. 4 lines 7-12 teaches a method to control the display of positive and negative human emotions, smiles and frowns, and ways to generate faces

with degrees of aggression or more passive faces. '433 claims then encoding of the emotive content into textual communications. The emotive content encoded is selected emotive states/intensities, not methods to display faces. The Brush II methods to display various emotions in faces are not disclosed to be encoded with associated text, as none is needed to do so to create the graphical facial display. '433 claims nothing about displaying the emotive content, only that it is encoded in the text stream. '433 claims nothing of positive or negative emotions, as these are not even a part of the emotive response model taught in '433.

'433 Claim 4: Brush II col. 4 lines 50-56 discloses a method to control the display of anger and aggressiveness on a display device through the positioning of a point indicated by a pointing device. In distinction with '433 claim 4 which claims decoding of emotive content in electronic communications bearing emotive vectors normalized to the communication's author. Brush teaches a method to display degrees of emotive states of anger or aggressiveness but offers no scales, range or boundaries to indicated emotive states. '433 claims claims a range and scale for emotive intensities associated with the emotive states. Furthermore, the emotive states are not limited to anger or aggressiveness but are selected from a set of stored states. Decoding of emotive states/intensities is not disclosed in Brush, only an algorithm to display the faces with emotions in a continuum of facial expressions, without scales or ranges demarking the beginning or end of any particular state. Without a range or scale, there can be no normalization of emotive intensity, hence Brush does not teach normalization of emotive intensity. In addition, the decoding claimed in '433 is also not limited or constrained by any graphical representations of emotive displays, only that the decoding is performed on a communication.

'433 claim 5: Brush II col. 5 lines 13-17 reserves the right to create graphical display of faces across different faces; human, animal and inanimate, a computer network devices, and applications; games, commerce. No further enablement is disclosed and therefore this is in reference to the disclosure in the specification, which is to control the expression of emotion on a display device in the particular method claimed. No tokens are disclosed in Brush II, as there are none, the graphical display is a continuum of emotions defined by a focal position on an x,y plane. '433 claims parsing the emotive content into tokens for presentation and display of face glyph emotive representations with associated textual content on receiver computing device displays. This parsing of tokens is from communications with selected emotive states/intensities, defined and with ranges/scales and specifically not from a continuum of emotions based on a pointing device on an x,y plane. Brush does not disclose tokens or parsing. Furthermore, in '433 the tokens are not used for the control of a graphical scheme to display faces, but to carry emotive content, which is processed without limitation or constraint to display of the parsed emotive content. The tokens are selected and defined emotive states and associated intensities, not positions on an x,y plane representative of a continuum of facial expressions without definite states or bound intensities or states with associated intensities, or emotive vectors with associated text.

'433 claim 6: Brush II col. 4 lines 23-30 discloses a user means to specify emotion in finer gradations and a range of intensity by placing a "emotion index point" in the plane of emotion control to produce this face. '433 1) does not specify emotion in finer gradations, the emotive states are defined in a discrete set of emotions and selected by the user, 2) does not have an unbounded continuum of range and without a scale or bleeding of one emotion into another, but a clear bounded range with a marked scale associated with a clearly defined emotive state, 3) does not contain a "emotion index point" because the purpose of '433 is not to control the creation of a face on a display. '433 claims 1) tokenizing of the parts of speech of associated text, Brush II does not ever mention associated text, and 2) tokenizes emotive content synthesizing author's intended meaning text strings, Brush II does no such thing not even remotely because its purpose is to draw a graphical facial expression.

'433 claim 7: Brush II col. 4 lines 57-62 discloses a "middle ground in the control continuum" between "aggressive" and "passive" emotive states. '433 defines a range and scale for the intensity, so that the emotive state need not be described as "intense", because the intensity value is chosen by the author of a selected emotive state in accordance to his/her own perception. The intensity of the emotive state is normalized to the author, which is also not disclosed in Brush II. It is not the teachings of Brush II to depict the emotion of a sender/author, only to control the graphical depiction of an emotion with "infinite gradation of emotions and intensity based on control" in accordance with a graphical control methodology.

Moreover, the emotive intensity in Brush II is described only as "intense positive emotion". '433 does not teach or claim positive or negative emotive states. '433 teaches that emotive states exist in a set of emotive states, not ones that the user must draw by any means, and that they have emotive intensities bounded with ranges, not a continuum of emotive states set afloat in a soup continuum, where one can cross from one emotive state to another by changing the displacement from the eye brows to the eyes.

Furthermore, Brush II does not map emotive intensity numerically onto text nor in any way associates the graphical artifact of his invention with expressed text, that which is claimed in '433 claim 7.

'433 claim 8: Brush II col. 3 lines 27-36 discloses selection of "an emotion and it's intensity by clicking the computer's pointing device with a mouse button on any point in a two dimensional graph representation ..". '433 does not teach or claim selection of emotive state or emotive intensity by a computer's pointing device on a two dimensional graphic representation. '433 claims scanning and tokenizing of the embedded emotive content in the communications, not graphical representations, pointing devices, positions on a two dimensional plane within a circle or any other such thing. In Brush, graphical representations are not textual communications, and graphical displays of faces representations are not tokens in a communication stream. Positioning a pointing device on a screen does not constitute scanning a communication stream.

'433 claim 9: Brush II col. 5 lines 1-7 disclose a means of representing emotions by graphical representation controlled on an "emotion control grid" by a pointing device, degree of "positive" emotion, we make no such distinction, by positioning the "control indicator" in some quadrant of the grid. '433 does not disclose an "emotion grid control" or positioning control indicator as in Brush. '433 claims parsing communications containing the emotive content using emotive grammar productions to tokenize the emotive content in textual communications. Textual communications are not displayed but are parsed for emotive content. Textual communications using grammar productions have nothing in common with placement of control devices on grids to represent emotions graphically as in Brush.

'433 claim 10: Brush II col. 4 lines 22-41 discloses they "produce many more faces with much finer detail in the display of the emotion." '433 does not teach or claim any particular way to display any particular emotion. Moreover, where and when displayed, '433 emotion representations are manually drawn face glyphs, not computer generated. '433 does not preclude that emotions can be generated by various computer graphical means, but does not claim any method of so doing as disclosed by Brush. '433 claims encoding emotive vectors normalized to the author with associated text in electronic communications. Brush II does not disclose encoding, normalization, association between graphic and text, or electronic communications.

'433 claim 11: Brush II figure 1 depicts a two dimensional plane with spoke directions for defining emotive states, directions of the compass defining the emotive states/intensities and a position control device for mapping the x,y position to an emotive graphical representation. Figure 4 depicts a graphical representation of "devilish grin" by placement of the control indicator in the "lower right hand quadrant." This is yet another demonstrative illustration of a method of producing faces of various emotions through a continuum of control positions on an x,y plane. '433 claims structuring and synthesizing emotive parsers with productions exploiting emotive vectors encoded in textual datastreams. Brush II does not disclose emotive parsers, productions, encoding, associated text or communication datastreams. '433 does not teach emotion representation by x,y control indicator positioning.

'433 claim 12-16: Responses can be found in paragraphs responding to claims 1-11 above respectively.

'433 claim 17 and 18: Brush II col. 4 lines 13-41 discloses a method of creating faces graphically to represent emotions in 3-D, using VRML, as well as 2-D, using JAVA. The Brush method maps negative and positive emotions by traversing positions on the x-axis and maps aggressive to passive by traversal on the y-axis. The combination is the resultant created face. '433 does not teach or claim negative or positive emotions. '433 does not teach or claim the positioning of a control indicator on a two dimensional plane. '433 does not teach or claim mapping aggressive to passive by traversal of indicator position on an y-axis.

'433 claims computer network used in assembling, encoding, transmitting, parsing, mapping emotive vectors to face glyph representations from a set of face glyphs among applications on a computer network for the exchange of emotive content, emotive vectors and text. Brush does not disclose assembling, encoding, transmitting, parsing, or mapping emotive vectors and text with face glyphs from a set of face glyphs.

3. Live Journal Prior Art

Although under "Contributors", Livejournal discloses that the site was started in 1999, they may not have had the prior art content published prior to the instant patent application.

In addition, the Live Journal content is only a small step above emoticons, because they identify the emotive state as moods, ie attach the emotive state with the face glyph, something emoticons do not carry. The identification of emotive state is generally left up to interpretation by the receiver and hence leads to emotive imprecision limiting its use. These are both distinguished from the instant application, which not only identifies the emotive state, or mood, but includes an associated emotive intensity with a bounded range and is attached to selected text in an application. The live journal does not contain emotive intensity and therefore cannot carry the complete emotive vector, the how intense is the feeling, mood, information. Moreover, there may be placement with but no attachment to selected text by user. Furthermore, there is no normalization with author/sender of any emotive content.

If any matters can be resolved by telephone, Applicant requests that the Patent and Trademark Office call the Applicant at the telephone number listed below.

Respectfully submitted,

By:


Walt Froloff

Reg. No. 52,923

Walt Froloff
Patent Agent/Inventor
273D Scaridge Rd
Aptos, CA 95003
(831) 662-0505